

THE
GREAT CHARTER
OF THE
FOREST,
DECLARING THE
LIBERTIES
OF IT.

Made at *WESTMINSTER*, the
Tenth of *February*, in the Ninth Year
of *HENRY* the Third, *Anno Dom. 1224.*
and Confirmed in the Eight and Twentieth
of *EDWARD* the First, *Anno Dom. 1299.*

WITH

Some short Observations taken out of the Lord Chief
Justice *C O K E's* Fourth *Institutes of the Courts*
of the *FORESTS.*

Written for the Benefit of the Publick.

L O N D O N,

Printed by the Assignees of *Richard and Edward Atkins*,
Esquires, for *John Kidgell* at the *Atlas* in *Cornhill*, near
the *Royal Exchange*, 1680.

A Declaration of y^e Liberties of
y^e English Nation, wth respect to
Corrests.



A
PREFACE
TO THE
READER.

Finding how well Magna Charta hath been received amongst us, as it hath been lately printed with some of my Lord Coke's Notes upon it, and considering likewise that Charta de Foresta, which was made and confirmed at the same times with the other, does in effect treat of the same Matter; and therefore both are called The GREAT CHARTERS of the LIBERTIES of England, I could not but imagine, that upon taking the same course, and presenting you with some of that Great Man's Comments, and Explanations of the Text, as I could gather them out of his fourth Institutes of the Courts of the Forests, & alibi; I could not, I say, but imagine, that this GREAT CHARTER of the FOREST would meet with an Equal kind Entertainment from you.

This, together with the Importunity of the Stationer, made me set about the Work; and I will here speak but a very few things by way of Preface, because I would not long keep you from your fuller satisfaction; and those shall be excerpted from my Lord Coke too. There were many

The Preface.

of the Great Charters, and of This **CHARTA DE FORESTA**, put under the Great Seal, and sent to Archbishops, Bishops, and other men of the Clergy, to be safely kept, whereof one of them remain at this day at Lambeth, with the Archbishop of Canterbury.

This was a great reach of Policy, to have them well preserved; and besides,

The same was entred of Record in a Parliament Roll.

25 E. 1.
C. 1.

And afterwards King Edward the first, by Act of Parliament did ordain, that both these Charters should be sent, under the great Seal, as well to the Justices of the Forest, as to others, and to all Sheriffs, and to all other the Kings Officers, and to all Cities thro' the Realm; and that the same Charters should be sent to all the Cathedral Churches, and that they should be read and published in every County four times in the year, in full County, viz. the next County day after the Feast of St. Michael, the next County day after Christmas, and the next County day after Easter, and the next County day after the Feast of St. John.

28 E. 1.
C. 1.

This Charta de Foresta and Magna Charta, my Lord Coke calls, Two glorious Lights; and truly so, for they were adjudged in Parliament to be taken as the Common Law; and the Law is the Light and Guide of Judges; Lex est exercitus Judicium tutissimus Ductor, lex est Optimus Judicis Zenagogus, & lex est tutissima Cassis.

25 E. 1. 1.

And albeit Judgments in the Kings Courts are of high regard in Law, and Judicia are accounted as Juris dicta, yet it is provided by the same Act of Parliament, that if any Judgment be given contrary to any of the points of either of the Charters, by the Justices, or by any other of the Kings Ministers, &c. it shall be undone, and holden for nought, because the Judgment is given against the Law.

And in such high Estimation have these two Charters been, that they have been confirmed, established, and commanded to be put in Execution by two and thirty several Acts of Parliament.

Mag-



Magna Charta
 DE
FORESTA.
 THE
GREAT CHARTER
 OF
FORESTS, &c.

E *Dward by the Grace of God, King of Eng-*
land, Lord of Ireland, and Duke of Guy-
an, to all to whom these Presents shall come,
sendeth, Greeting. We have seen the Charter of
 the Lord **HENRY** our Father, sometime
 King of England, concerning the *Forest*, in
 these words:

“**H** *Enry, by the Grace of God, King of*
England, Lord of Ireland, Duke of Nor-
mandy and Guyan, and Earl of Anjou, to all
 B 3 “Arch-

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"Archbishops, Bishops, Abbots, Priors, Earls, Barons,
 "rons, Sheriffs, Provosts, Officers, and to all Bailiffs,
 "liffs, and other our Faithful Subjects, who shall
 "see this present CHARTER, greeting.
 "Know ye, That We, unto the Honour of Almighty God,
 "and for the Salvation of the Souls of our Progenitors
 "and Successors Kings of England, to the advancement
 "of Holy Church, and amendment of our Realm, of our
 "meer and free will have given and granted to all
 "Archbishops, Bishops, Abbots, Priors, Earls, Barons,
 "and to all Freemen of this our Realm, these Liberties
 "following, to be kept in our Kingdom of England for ever.

CHAP. I.

What Woods shall be disafforrested.

Imprimis, We will, that all Forests, which King Henry our Grandfather afforrested, shall be view'd by good and lawfull men; and if he hath afforrested any other (a) Wood, more than his own Demesne, by which the Owner of the Wood hath damage, it shall be forthwith disafforrested; and if he hath afforrested his

his own Wood, then it shall remain Forest : saving the (b) Common of Herbage, and of other things in the same Forest, to them who before were accustomed to have the same.

3. Bulstrode. 213.

Ockam cap. *quid Regis Foresta*, saith, *Foresta est quæ ferarum Mansio, non quarum libet, sed silvestrium, non quibuslibet in locis, sed certis & ad hoc idoneis, unde Foresta E. mutata in O. quasi Fereſta, hoc est, ferarum mansio.* Co. Litt. Sect. 378. Fol. 233. a.

Forests and Chases are not inclosed, but a Park must be; the Forest and Chase do differ in Offices and Laws: every Forest is a Chase, but every Chase is not a Forest. A Subject may have a Forest by special grant of the King, as the Duke of Lancaster, and Abbot of *Whitby* had: *id. ibid.*

A Forest consisteth of Eight things, viz. Of Soil, Covert, Laws, Courts, Judges, Officers, Game, and certain Bounds. *Co. Inst. 4. Part. Fol. 289.*

Foresta est nomen collectivum, and by the grant thereof, the Soil, Game, and a free Chase doth pass. *id. ibid.*

King John the 15. of June in the 18 year of his Reign, at Kummigs-mead, alias Kyme-mead, between Stanes and Windsor, granted the like Charter, as *Charta de Foresta* is. *id. ibid.*

(a) This is an Act of Restitution, for if the King might have made a Forest in other Mens Woods, then could not the Owner have fell'd down his own Woods without View and License, & sic ad damnum illius, &c. *id. Fol. 300.*

(b) Note, all manner of Commons are saved.

CHAP. II.

Who bound to the Summons of the Forest.

MEN that dwell out of the Forest, from henceforth shall not come before the Justicers of our Forest by common Summons, except they be impleaded there, or be Sureties for some others that were Attached for the Forest.

This Statute of *Charta de Foresta* hath been above Thirty times, and lastly in 4 *Hen. 5.* confirmed, and enacted, and commanded to be put in execution. *Co. Inst. 4. Part. Fol. 303.*

And it is very observable, that if any Act of Parliament hath been made against any of the Articles of the Statute of *Carta de Foresta*, by the Act of Parliament of 42. E. 3. the same is made void, and by the Statute of *Confirmationes Cartarum* in 25. E. 1. all Judgments given against any of the points of *Carta de Foresta*, shall be holden for void.

CHAP. III.

What Woods made Forest, shall be disafforested.

ALL Woods that have been made Forest by King *Richard* our Uncle, or by King *John* our Father, untill our first Coronation, shall be forthwith disafforested, unless it be our Demesne Wood.

Whereas *Henry 2. Fitz. Empress* claim'd that he might make Forrests not only within his own Woods and Grounds, but in the Woods and Grounds of his Subjects, and thereupon made divers such Forrests within his own and other mens Woods and Grounds: Whereupon some Readers, and others that have followed them, are of opinion that *Henry 2.* might *de Jure* do that which he did: This Act of *Charta de Foresta*, which is but a declaratory Law restoring the Subject to his former right, is directly against that concept, as you may see before in the first Chapter of it; and to the same effect is this third Chapter. Neither could *Henry 2.* or any other King have made, or rais'd a free Chase, Park, or Warren for himself in any of the grounds of the Subjects; for it is truly said in *Plowdens Commentaries*, Lord *Berkely's* case, fol. 236. that the *Common Law* hath so admeasured the Kings Prerogatives, that they should not take away, nor prejudice the Inheritance of any. But we agree, that all the Lands of the Subject are originally derived from the Crown: And therefore when the Ancient Kings had the

Not.

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most part in their own hands, or at least great Desarts, Waste and Woody grounds, for want of habitation, they might make what Forests it pleased them therein, which may be a Reason and cause of a lawfull beginning; and therefore a Forest may be by Prescription good in Law over other mens grounds. But the King in his own grounds may make a Forest at this day, which is proved by these two Chapters, for such Forests are thereby saved and Enacted to stand. Co. 4. Part. Instit. fol. 300, 301. *Desertum, id quod ab hominibus deseritur, & feris relinquitur.*

CHAP. IV.

No Purpresture, Waste, or Assart to be made in Forests.

ALL Archbishops, Bishops, Abbots, Priors, Earls, Barons, Knights, and other our Freeholders, who have their Woods in Forests, shall have their Woods as they had them at the first (||) Coronation of *Henry* our Grandfather, so that they shall be quit for ever of all (a) Purprestures, (b) Wastes, and (c) Asserts, made in those Woods, after that time untill the beginning of the second year of our Coronation: And those who from henceforth do make Purpresture without our Licence, or Waste, or Assert in the same, shall answer unto us for the same Wastes, Purprestures, and Asserts.

(a) *Purpresture* cometh of the French word *purprise*, or *pourpris*, which signifieth an Inclosure or building, and in legal understanding signifieth an encroachment on the King, either upon part of the Kings demesne Lands of his Crown, which are accounted in Law as *res publica*, & *semper favorabile fuit in Omni Republica Principis patrimonium*; or in the High wayes, or in the Common Rivers, or in the Common streets of a City, or generally when any Common Nufans is done to the King and his people, endeavouring to make that private, which ought to be publick, which *Glanvil*, lib. 9. cap. 11. very aptly describeth in these words; *Dicitur autem purprestura, vel porprestura poprie quando aliquid super Dominum Regem injuste occupatur, ut in Dominicis Regis, vel in viis publicis obstruit, vel in aquis publicis transversis a recto cursu, vel quando aliquis in Civitate super regiam plateam aliquid adificando occupaverit, & generaliter quoties aliquid fit ad nocumentum Regii tenementi, vel Regia via, vel Civitatis.* Co. 2. Instit. fol. 272.

It was an Article of the Eyre before the Statute de Bigamis, in 4. Ed. 1. to enquire de *purpresturis factis super Dominum Regem, sive in Terra, sive in Mari, sive in aqua dulci, sive infra libertatem, sive extra.* Cap. itineris. id. ibid.

It appeareth also by *Glanvil*, that there be likewise *Purprestures* done to Subjects. id. ibid.

(b) Waste, *Vastum dicitur a vastando*, of wasting and depopulating; and for that waste is often alledged to be Timber, which we call in Latine *Maremium*, or *Maresnium*, or *Maresmum*; it is good to fetch both of them, saith my Lord Coke, from the Original. First, Timber is a Saxon word: Secondly, *Maremium* is derived of the French word *Marreim*, or *Marrein*, which properly signifieth Timber. Co. 1. Instit. fol. 52. b. 53.

(c) *Affert*, is so called of the effect (as some hold) and is derived (say they) of *ad* and *sero*, *affero*, because of Wood grounds, Marishes or waste grounds, they are converted to be sown with Corn, and therefore in the Register, and *F. N. B.* it is written *assettare*, with an E. and so it is in this Chapter here in the Latin. *Bracton* † hereof saith, *Illud quod fuit aliquando boscus, & locus vaste solitudinis & communia & jam inde efficitur Assartum, vel redactum est in Culturam.* And herewith

† Lib. 4.
fol. 226.

with agreeth *Fleta*, lib. 4. c. 22. lib. 2. cap. 25. *illud olim fuit Foresta, et boscus, &c. et jam efficitur Assartum, & reduclum est in Culturam, et idem dici poterit de Mariscis et aliis vastitiis in culturam redactis.* Others fetch it otherwise, but we hold, that it is derived of the French word *essarter*, to grub up, or clear a ground of wood, &c. and this appeareth by *Domesday. Hereford-shire. Merchela in eodem manerio sunt 58. acre, terra provect. de silva*, written over the same *essars: de essart silve exeunt 17. s. and 4. d. E. being turned into A. Co. Infit. 4. part. fol. 306, 307.*

(||) Where it is said (*tempore Coronationis Regis Henrici Avi*, that is of H. 2.) it is to be known that he was Crowned twice, viz. the 20. of *December* in the first year; he caused his Son *Henry* to be Crowned King the 15. of *June*, in the 16. year of his reign; *Henry* his Son died the 11. of *June* in the 28. year of his reign; after whose death King *Henry Fitz-Empresse* was Crowned again. *Id. fol. 293.*

CHAP. V.

When Rangers are to make their Range in the Forest.

Our Rangers shall go through the Forests to make range, as it hath been accustomed at the time of the First Coronation of King *Henry* our Grandfather, and not otherwise.

The Ranger is a sworn Officer of the Forest, of which sort there seem to be twelve, as you shall see in the 7. Chapter, but he is not within the Forest, having no charge of Vert, but only of Venison that cometh out of the Forest into his charge, or
part

part of the Purlicu, to ſafe conduct them back again. And it is to be noted, that in ſuch Foreſts as have no Purlicus, there is no Ranger, but Foreſters ſerve the turn.

This Ranger is made and appointed by the King, his Letters patehts under the great Seal; and for his better encouragement in his duty, he hath a yearly fee of twenty pounds, or thirty pound paid out of the Exchequer, and certain fee Dear both red and fallow; his Office conſiſteth chiefly in theſe three points:

1. *Ad perambulandum quotidie per terras de afforeſtatas, ad videndum audiendum & inquirendum, tam de Malefactis, quam de Malefactoribus in Balliva ſua.*

2. *Ad Refugandum feras Foreſta tam Veneris quam Chace de terris deafforeſtatis, in terras afforeſtatas: &*

3. *Ad preſentandum omnes tranſgreſſiones Foreſta in terris deafforeſtatis factas, ad proximas Curias illius foreſta tentas.*

As for the Oath of the Ranger, it is continually in theſe words. You ſhall truly execute the Office of a Ranger in the Purlicu of P. upon the border of the Kings Foreſt of P. You ſhall re-chafe with your Hound and drive the Wild Beaſts of the Foreſt, as often as they ſhall range out of the ſame Foreſt into the purlicus; You ſhall truly preſent all unlawfull hunting and hunters of Wild Beaſts of Venary and Chace as well within the purlicus (which proveth that the purlicus are no part of the Foreſt, but diſtinct things) as the Foreſt; and thoſe and all other offences. you ſhall preſent at the Kings next Court of Attachments, or Swanimote, which ſhall firſt happen: So help You God. Co. Inſtit. 4. Part. fol. 304.

Purlicu is all that ground near any Foreſt, which being made Foreſt by Henry the ſecond, Richard the firſt, or King John, were by Perambulation granted by Henry the third, ſevered again from the ſame. *Manwood*, Part. 2. of his *Foreſt Laws*, cap. 20.

Purlicu, ſaith my Lord Coke, containeth ſuch grounds which Henry the Second, Richard the firſt, or King John added to their Ancient Foreſts over other mens grounds, and which were diſafforeſted by force of this Statute, in the firſt and third Chapters, and the Perambulations and Grants thereupon. And is derived from a French Adjective, and a French Noun, w^z. *Pur*, which ſignifieth clear, entire, and exempt, and *lieu*, that

that is, a place entire, clear, or exempt from the Forest. And both of these derived from the Latine Adjective and Noun: viz. *Purus locus*, and in this sence the Civilians called that *purum locum qui sepulchrorum Religioni non est obstrictus*. And the perambulation whereby the Purlieu is deafforested, is called in French *Pourallée*. i. e. *perambulatio*: so as the purlieu and pourallée are two distinct things, and 33 E. 1. Stat. 5. purlieu is the right name of the place deafforested. Co. Instit. 4. Part. fol. 303.

By this it appeareth that Chases that never were any Forests cannot have any Purlieu, and consequently the case in 16 Dyer. 326, b. 327. is mistaken, for the Chase of Whaddon never was any Forest. Whereby it may be observed, how necessary the true derivation of words is, according to Littleton's Example. *id. ibid.*

By this deafforestation the owners of the grounds within the Purlieu may at their will and pleasure fell, cut down, eradicate, and stubb up all the Timber, Woods and underwood, convert their Pastures, Meadows, and other grounds to arable, inclose them in with any kind of inclosure, build and erect new Edifices upon the same or any part thereof, and to dispose and use the same after the disafforestation, as if they never had been afforested. *id. ibid.*

CHAP. VI.

Lawing of Dogs in Forests.

THE Enquiry or view of (a) Lawing of Dogs within our Forest, shall be made from henceforth, when the Range is made, that is to say, from three year to three year, and then it shall be done by the view and

and testimony of lawful men, and not otherwise. And he whose Dog is not lawed, and so found, shall pay for his amercement three shillings. And from henceforth no Ox shall be taken for lawing of Dogs. And (b) such lawing shall be done by the Assise commonly used, that is to say, that three claws of the forefoot shall be cut off by the skin. But from henceforth such lawing of Dogs shall not be, but in places where it hath been accustomed from the time of the first Coronation of the aforesaid King Henry our Grandfather.

(a) *Expaaltare Canes. i. e. Expeditare Canes.* Expeditating or Lawing of Dogs. *Expeditatio* is derived of *ex* and *pede*, because the Dog is lamed in the foot. *Co. Instr. 4. Part. fol. 308.*

(b) *Canis* in this Chapter is taken for *Mastivus* by these words, *talis Expeditatio fact' per Assisam communiter usitatam*, which hath reference to the Assise of the Forest, *tempore Henr. 2. Art. 6.* which speaketh only *de expeditatione Mastivorum & Assis. & consuetud. Foresta, 6 Ed. 1. cap. 9.* speaketh only *de Mastivo. id. ibid.*

Ortelles, this word is taken from the French word *Orteils des pieds. i. e. digiti pedum*, the Toes, or here Claws. *ibid.*

Pellota, of the French word *Pelote*, and they from *Pila*; in this act it is taken for the Ball of the foot, *sine Pelota*, without the ball of the foot. And therefore by the express words of this Chapter the ball of the foot of the Mastive is not to be cut off, but the three claws of the forefoot to the skin. This extendeth only to Mastiffs, and to no other Dogs; for *Ubi non est Lex ibi non est Transgressio*; and necessary it is, that such as dwell in Forests where there are Coverts, that they should

should keep other Dogs unexpeditated, and the Mastiff unexpeditated for the defence of their house, or for giving of warning of Thieves and Robbers, &c. *ibid.*

The words of this Chapter are, *De expeditatione Canum existentium in Foresta*; and therefore in Purlieus or places deafforested, a man may keep a Mastiff without being expeditated. *Ibid.*

If Grey-hounds be found running *ad Nocummentum*, the Forester ought to retain them; and present them in the presence of the Verderers, and send them to the King, or to the chief Justice of the Forest. *Ibid.*

The Court of Regard, or Survey of Dogs, as you see by this chapter, is holden every every third year, for Expeditation or lawing of Dogs by that Court. *Id. fol. 289.*

CHAP.



C H A P. VII.

*Where only Gathering shall be in
Forests.*

(a) **N**O Forester or (b) Bedle from henceforth shall make (Δ) Scotal, or gather Garb or Oates, or any Corn, Lamb, or Pig; nor shall make any Gathering, but by the Sight, and upon the Oath of the *Twelve Rangers*, when they shall make their Range. So many Foresters shall be assigned to the Keeping of the Forests, as reasonably shall seem sufficient for the Keeping of the same.

Stat. 25 Ed. 3. 7.

In this Statute of 25 Ed. 3. c. 7. the words are: *Moreover, It is Accorded and Established, That no Forester, nor Keeper of Forest or Chase, nor any other Minister, shall make or gather Sustenance, nor other Gathering of Victuals, nor other thing, by colour of their Office, against any Man's Will, within their Bailiwick, nor without; but that which is due of Old Right.*

D

(a) Fore-

(a) *Foreſtarius* is taken for a Wood-ward, not only of the King within his Forest, but *ex vi termini* of any Subject of his Woods whereſoever they lye; as appeareth by a Writ in *Bracton*, lib. 4. fol. 316. a. & b. & 231. a. *Vid. Co. Inſtit.* 4. part, fol. 293. But in Legal Underſtanding, he is taken for a ſworn Officer Miniſterial of the King's Forest; and his Duty appeareth by his Oath, which conſiſteth of Five Parts.

1. That he ſhall be Loyal and True to the Maſter of the Forest.

2. That he ſhall truly walk and keep the Office of the Foreſterſhip, and true Watch make both Early and Late, both of *Vert* and *Veniſon*.

3. Truly attack, and true Preſentment make of all manner of Treſpaſſes done within this Forest, to his Knowledge; and eſpecially, within the keeping of his Baylick.

4. The King's Council, his Fellows, and his own, he ſhall truly keep. And,

5. No Concealment make for no Favour, Meed, or Dread; but well and truly to behave himſelf therein. *Co. ibid.*

Officers of the Forest ſhall not be ſworn on Enqueſts out of the Forest. *Ordinat. Foreſta*, 34 E. 1. cap. 5. *ibid.*

(b) *Bedellus*, is an Officer of the Forest, that doth warn all the Courts of the Forest, and doth Execute the Proceſs of the Forest, and make all Proclamations as well within the Courts, as without; and is derived from the Saxon Word *Bydder*, to Call or Warn, or of the French Word in Normandy, *Bedeau*, a Bayliſſ, or Apparitor. *Co. Inſtit.* 4 part, fol. 313.

How many ſorts of Officers, and what Number do belong to a Forest; you may be ſatiſfied in, by my Lord Coke's Recital of them, as they are found in the Eire of *Pickering*.

The Foreſters, by this Chapter, for keeping of the Forests, are to be ſo many, as ſhall reaſonably ſeem ſufficient for the ſame.

The *Verderers* are moſt commonly Four in every of the King's Forests.

They

They are Judicial Officers of the Forest, and chosen in Full-County; by force of the King's Writ.

The Office of a *Verderer* is to observe and keep the *Affizes* or Laws of the Forest; and to View, Receive, and Inrell the Attachments and Presentments of all manner of Trespasses of the Forest of *Vert* and *Venison*; and to do equal Right and Justice, as well to Poor as to Rich. All this, and much more you may read in the Oath, which he taketh before the Sheriff. *Co. Instit. 4 par. fol. 292, 293.*

The Form of it you may see in *Manwood's First Part of his Forests Laws, pag. 51.* You shall truly serve our Sovereign Lord the King, in the Office of a *Verderer* of the Forest of P. You shall to the utmost of your Power and Knowledge, do for the Profit of the King, so far as it doth appertain unto you to do. You shall preserve and maintain the Ancient Rights and Franchises of his Crown. You shall not conceal from his Majesty any Rights or Privileges, nor any Offence either in *Vert* or *Venison*, or any other thing. You shall not withdraw, nor abridge any Defaults; but shall endeavour your self to manifest, and to Redress the same: And if you cannot do that of your self, you shall give Knowledge thereof unto the King, or unto his Justice of the Forest. You shall deal Indifferently with all the King's Leige People. You shall Execute the Laws of the Forest, and do equal Right and Justice, as well unto the Poor, as unto the Rich, in that appertaineth unto your Office. You shall not oppress any Person by colour thereof, for any Reward, Favour, or Malice. All these Things you shall, to the uttermost of your Power, observe and keep.

The *Régardatores*, or Rangers, are by this Chapter to be Twelve at the least; but by the said Eire of *Pickering*, it appeareth there may be more, for there are there set down Thirteen by name. *Vid. Co. Instit. 4 par. fol. 311.*

The *Agistors*, or *Gist-takers*, are Four in Number within every Forest: Their Office you shall see more of in the *Nineth Chapter.* And,

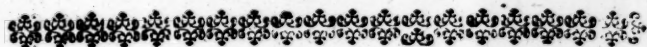
There are several others, which you may see in *Manwood, par. 2. cap. 1. nu. 4, & 5.* together with their Offices, too long here to be inserted.

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△ *Scotales, Scotale*, derived of two *English* words, *Scot* and *Ale*; as much as to say, a Tribute or Contribution of Drinking for the Ministers of the Forest; when they came to the House of any, whereunto others are Contributory within the Perambulation of the Forest, which then was called *Potura*, a Drinking. And after, they claimed the same for all Victuals for Themselves, their Servants, Horses, and Dogs, which was called *Putura*: And this doth notably appear by a Record in 5 *E. 3.* in these words:

Putura in Chacea de Bowland. i. Consuetudo clamata per Forestarios, & aliquando per Ballivos hundredorum, recipere Victualia, tam pro seipsis, hominibus, equis & canibus de tenentibus & inhabitantibus infra Perambulationem Foresta seu hundredi quando eo pervenerint, nihil inde solvendi. And whereas, it is enacted by the Statute 25 *E. 3. c. 7.* above-mentioned, That no Forester, or Keeper of Forest or Chase, &c. shall make or gather Sustenance, &c. against any Man's Will, &c. but that which is due of Old Right; that is, those Fees which time out of mind, they ought to have within that Forest, and as shall appear to be due by the Oaths of Twelve Regarders, or Rangers. *Co. Instit. 4 par. fol. 307.*

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C H A P. VIII.

*When Swanimotes are to be kept, and
who to Repair to them.*

NO Swanimote from hence-forth shall be kept within this our Realm; but thrice in the Year; *viz.* in the Beginning of Fifteen Dayes afore *Michaelmas*, when that our Gest-takers, or Walkers of our Woods come together, to take Agistment in our Demesne Woods; and about the Feast of Saint *Martin*, in the Winter, when that our Gest-takers shall receive our Pawnage. And to these two Swanimotes, shall come together our Foresters, Verderors, Gest-takers, and none other by Distress. And the Third Swanimote shall be kept in the Beginning of Fifteen Dayes before the Feast of Saint *John Baptist*, when that our Gest-takers do meet to Hunt our *Deer*. And at this Swanimote shall meet our Foresters, Verderors, and none other by Distress. Moreover, every Forty Dayes through the Year,
our

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our Foresters and Verderers shall meet, to see the Attachments of the Forest, as well for (Δ) Greenhue; as for Hunting, by the Presentment of the same Foresters, and before them Attached. And the said Swanimotes shall not be kept, but within the Counties wherein they have used to be kept.

Within every Forest there are these Courts.

- 1 C. *First, The Court of the Attachments, or the Wood-mote Court*: This is to be kept before the Verderers every Forty Dayes throughout the Year; and thereupon is called *The Forty-day Court*. At this Court, the Foresters bring in the Attachments *de Viridi & Venatione*, and the Presentment thereof; and the Verderers do receive the same, and in-roll them: But this Court can only Enquire, and not Con- vict. But it is to be observed, that no Man ought to be at- tached by his Body, for Vert or Venison, unless he be ta- ken with the Manner within the Forest; otherwise the At- tachment must be by his Goods.
- 2 C. *Secondly, The Court of Regard, or Survey of Dogs to be* Holden every Third Year for Expedition, as before has been said.
- 3 C. *Thirdly, The Court of Swanimote, which is to be Holden* before the Verderers, as Judges, by the Steward of the Swani- mote, thrice in the Year; and the Foresters ought to present their Attachments at the next Swanimote-Court; and the Free- holders within the Forest, are to appear at the Swanimote, to make Enquests and Juries. And this Court may enquire *de Super operatione Forestariorum, & aliorum Ministrorum Fore- ste, & de eorum oppressione populo nostro illatis*. And this Court may not only Enquire, but Convict also; but not give Judgment.

Vid. 1 E. 3. ca. 8. 50 E. 3. Assiz. 442. Co. Instit. 4 par. f. 289. Swani-

Swanimote is derived of *Swein*, that is, *Saxonice Minister*; and *Mote*, or *Gemote*, which is *Curia*, i. e. *Curia Ministrorum Foresta*; so called, because it is but a Preparative for the Justice-Seat, *a. Ordinat. Foresta*, 34 Ed. 1. cap. 4. *id. ibid.*

For the Jurisdiction of this Court, there is a Notable Case in 45 E. 3. in a Writ of Trespas of False Imprisonment, brought against *J. de W.* the Defendant said he, is Forester in fee of the Forest, and that a certain Swanimote it was presented by the Foresters, Verderers, Regarders, and Agistors, that the Plaintiff had chased and taken Deer within the Forest: Whereupon the Defendant being Forester in Fee, came to the Plaintiff, and pray'd him to find Pledges to answer the same before the Justice in Eyre, in this Country, (that is, at the Justice-Seat): and that to do the Plaintiff refused; by force whereof he retain'd him, until he had performed the Statute in that Case provided; and justified the Imprisonment. The Plaintiff replied, *De son tort Demesne sans tiel cause*; and the Issue was received by the Court. And it was said, *That before the Justice in Eyre he should have no Averment against the Presentment of the Foresters.* *Id. f. 290.*

Hence are Six Conclusions observable.

First, That the Law of the Forest is allow'd and bound-
ed by the Common-Laws of this Realm.

Secondly, That though the Verderers be Judges of the Swanimote, and the Steward but a Minister; yet the Presentment in that Court, is as well by them as Verderers, as by Foresters, or Keepers, Regarders, and Agistors, by the Law of the Forest.

Thirdly, That a Forester or Keeper may Arrest any Man, that Kills or Chaseth any Deer within the Forest, when he is taken with the Manner within the Forest; or if the Offendor be Indicted.

If a Man be so Imprisoned, and after offer sufficient Pledges, and they are not taken; seeing Justice-Seats for Forests are very seldom Holden, this is his Remedy:]

In the Term-time, he may have *Ex merito Justitie*, a *Hab-*
beas

beas Corpus out of the *King's-Bench*; or, if he have Priviledge, out of the Court of *Common-Pleas*, or of the *Exchequer*, or out of the *Chancery*, without any Priviledge in Term, or out of Term in time of Vacation; and upon the Return of the Writ, may be Bailed to appear at the next Eire to be Holden for the Forest, &c. and also, may be Bailed by a Writ *de Homine Replegiando*, directed *Custodi Forestæ*, if he be Arrested by the Officers of the Forest, for Hunting, &c. whereof he stands Indicted, or Presented, taken with the Manner, he finding Twelve Pledges: But if he be adjudged by the Justices in Eire, and Imprison'd, he can't be Bailed by that Writ.

If he be unjustly proceeded against, he hath there Remedy by Law.

Note a Difference, between the Writ *de Homine Replegiando* directed to the Sheriff; for he cannot by *Stat. West. 1. cap. 15.* Replevy any Man imprisoned for the Forest, being taken with the Manner, or Indicted: But this Statute reaches not to that of *de Homine Replegiando*, directed *Custodi Forestæ*.

4. *Fourthly*, That the Offendor may be Retained by him, until he hath found Pledges to appear before the Justice in Eire; because (as hath been said) the *Swanimote-Court* hath no Power of Judicature: But if sufficient Sureties be offered, he ought not to be Imprisoned.

5. *Fifthly*, The Justice in Eire at his Sessions, may, by the Law of the Forest, proceed upon the Presentments or Verdicts in the *Swanimote-Court*, though they are taken in another Court. And,

6. *Lastly, Note*, The Issue joined upon the Plea of the Forester, viz. *De injuria sua propria absque tali causa*, and allowed by the Court, and the Consequent thereupon.

Note also, That if at the *Swanimote*, the Presentment of the Foresters be found true by the Jury concerning *Vert* or *Venison*, the Offendor standeth thereof Convict in Law, and cannot Traverse the same: But an Indictment or Presentment before the Chief-Justice of the Forest, at a Court of the Justice-Seat by a Jury, and not found in the *Swanimote*,

mote, may be Traversed, 8 E. 3. *Itinere Pickering*, 147. a. because it is not Presented but by one Jury. *Co. Instit.* 4 par. 290, 291.

There is also the Court of the *Justice-Seat*, holden before the Chief Justice of the Forest, aptly called *Justice in Eire*; for so he is, and hath Authority and Jurisdiction to Hear and Determine concerning *Vert* and *Venison*, &c. by force of Letters Patents under the Great Seal; whereof there are Two: One for the Forest on this side of *Trent*, the Other beyond. *Id.* 291.

4 C.

The Court of the *Justice-Seat* can be kept but every Third Year; and other Justices in Eire kept their Courts every Seventh Year. And it must be Summoned Forty dayes at least, before the Sitting thereof: And one Writ of Summons is to be directed to the Sheriff of the County. *Id.* *Ibid.*

There is another Writ of Summons directed *Custodi Foresta*, &c. And this consists of Two Parts.

1. To summon all the Officers of the Forest, to bring with them all Records, &c.

2. All Persons who claim any Liberties or Franchises within the Forest, &c. to shew how they claim the same. *Id.* *Ibid.*

More of this shall be said in the Sixteenth Chapter.

(Δ) *Greenhue* is *Vert*; and signifieth in the Laws of the Forest, Every thing that doth Grow, and bear Green Leaf, within the Forest, that may cover and hide a Deer. *Manwood* 2 par. *Forest-Laws*, fol. 6. a. & fol. 33. b.

Vert is divided into General and Special; *Vert* General is, as above Defined; Special, is every Tree and Bush within the Forest, to Feed the Deer withal; as *Pear-Trees*, *Crab-Trees*, *Hawthorns*, *Black-Bush*, and the like. And the reason of this Name is, because the Offence of destroying such *Vert*, is more highly punished than any other, according to the Quantity thereof. See more C. 16.

Mensis Veritus, Fence-Month, or Defence-Month; so called, because it is the Fawning-Month, when the Does have Fawns; for the Preservation whereof, they ought to be

E

Fenced,

Fenced, and Defended from Hurt and Disquiet. It contains a Kalendar-Month of One and Thirty Dayes, and begins the Fifteenth Day before *Mid-Summer*; in the beginning whereof, a *Swanimote* is to be holden, and endeth Fifteen Dayes after: as you may see by this Chapter. The Third *Swanimote* to be kept in the beginning of Fifteen Dayes *ante Festum Sancti Johannis Baptiste, quando Agistatores nostri conveniunt pro Faonatione seu Feonatione bestiarum Nostrarum*, Co. Instit. 4 par. fol. 313.

In the Printed Book it is *Venatione*, which ought to be amended, and made *Faonatione*, or *Feonatione*; which signifieth the *Fawning*.

This word *Faonatio*, or *Feonatio*, is derived of the French word *Faonier*, i. e. to Fawn, or for *Does* to bring forth. *Id. ibid.*



CHAP. IX.

Who to take Agistment and Pawnage in Forests.

EVERY Free-Man may Agist his own Wood within Our Forest, at his Pleasure, and shall take his (□) Pawnage. Also, We do grant, That every Free-Man may drive his Swine freely, without Impediment, through our Demesne Woods, to Agist them in their own Woods, or where else they will. And if the Swine
of

of any Free-Man lie one Night within our Forest, there shall be no Occasion taken thereof, whereby he may lose any thing of his own.

Agistator, so called, because he taketh Beasts to Agistment; that is, to Depasture within the *Forest*, or to Feed upon the Pannage; and cometh of the *French Word* (*Geyser*,) i. e. to Lie; because the Beasts that Feed there, are there Levant and Couchant, Lying and Rising. *Co. Instit.* 4 par. fol. 293.

Agistment is properly the Common of Herbage, of any kind of Ground, or Land, or Woods, or the Money due for the same. *Mr. Manwood*, par. prior. of his *Forest-Laws*.

This Officer is Constituted by the *King's Letters Patents*: And of these, in such *Forests* where there is any Pannage, there be *Four* in Number. *Co. ibid.*

There Office consisteth in these *Four Points*: 1. *In Agistando*. 2. *Recipiendo*. 3. *Imbreviando*. 4. *Et Certificando*. *ibid.*

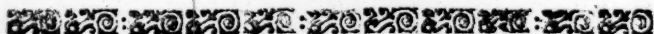
(□) *Pannage*, (*Pannagium*, alias *Pasnagium*) or *Pennagium*, as it is Latined in *Pupilla Oculi*, may be thought to come of the *French Paneez*, or *Panets*; which is a Root muchwhat like to a Parsnip, but less and ranker in Taste; which Hogs do there Feed upon, though it be Eaten by Men also. It signifieth in our Common-Law, the Money taken by the Agistors, for the Feed of Hogs with the Mast of the *King's Forest*. *Crompt. Jurisd.* fol. 155.

Mr. Manwood, par. prior. of his *Forest-Laws*, saith, *Pannage* is most properly the Mast of the Woods, or Lands, or Hedge-Rowes, or the Money due to the Owners of the same for it.

Mr. Skene de Verbor. Signif. calleth it *Pannagium*; and
E 2 defi.

defineth it to be the Duty given to the King, for the Pasturage of Swine in the Forest.

Quicquid esse de Pannagio, i. e. to be quit to pay any thing for Pannage. Vid. F. N. B. p. 230.



CHAP. X.

The Punishment for Killing the King's Deer.

NO Man from henceforth shall lose either Life, or Member, for Killing of Our Deer: But if any Man be (☉) Taken, and Convict for Taking of Our *Venison*, he shall make a Grievous Fine, if he have any thing whereof. And if he have nothing to lose, he shall be Imprisoned a Year, and a Day: And after the Year and the Day is expired, if he can find sufficient Sureties, he shall be Delivered; and if not, he shall Abjure the Realm of England.

Stat. 1. Ed. 3. 8. Sess. 1.

Stat. 1. H. 7. 7.

Register, fol. 80.

In this, and in other Chapters of this Statute, *Venatio* signifieth *Venison*, as in the Eighth and Sixteenth. It is called

led *Venison* of the *Mean*, whereby the *Beasts* are taken, *Quoniam ex Venatione Capiuntur*; and being Hunted, are most *Wholesome*. They are called, *Beasts of Venary*, (not *Venery*, as some term it) because they are gotten by Hunting.

Ordinatio Foresta, cap. 15. *Co. Instit.* 4 par. fol. 316.

There be many *Beasts* of the *Forest*, by the *Laws* of the *Forests* of *England*.

The *Hart* in *Summer*, the *Hinde* in *Winter*; and all that proceed as of them: The *Buck* in *Summer*, the *Doe* in *Winter*, and the Proceed of them: The *Hare*, Male and Female, and their Proceed: The *Wild-Boar*, Male and Female, and their Proceed: And the *Wolf*, Male and Female, and their Proceed: The *Martin*, Male and Female. The *Roe* is no *Beast* of the *Forest*, but it is a *Beast* of *Chase*; and so it was resolved by the *Justices*, and the *King's Council*, That *Capreoli non sunt Bestia de Foresta*: And this was the Reason of it, *id quod fugant alias feras*. *Hill.* 13 E. 3. *coram Rege in Thesaur.* *Co. Litt.* Sect. 378. fol. 233. a.

The Proceeds of the *Hart* and *Hinde*: The Male, the First Year a *Calf*, the Second a *Brocket*, the Third a *Spayad*, the Fourth a *Staggard*, the Fifth a *Stagg*, the Sixth a *Hart*; and so after. The Female, the First Year a *Calf*, the Second a *Brocket's Sister*, and the Third Year a *Hinde*. *Co. Instit.* 4 par. fol. 316.

The Proceeds of the *Buck* and *Doe*: The First Year a *Fawn*; the Second Year a *Pricket*, the Third Year a *Sorel*, the Fourth a *Sore*, the Fifth a *Buck* of the First Head, the Sixth a *Great Buck*. *ibid.*

The Proceeds of the *Hare*: The First Year a *Leveret*, the Second Year a *Hare*, the Third a *Great Hare*.

Of a *Wild-Boar*: A *Pigg*, a *Hogg*, a *Hogg-Steer*, a *Boar*, and after a *Sanglier*.

The Seasons by the Law of the *Forest*, for the *Beasts* of the *Forest*, are these:

Of the *Hart*, and the *Buck*, beginneth at the Feast of *St. John Baptist*, and endeth at *Holy Rood-Day*.

Of the *Hinde* and *Doe*, beginneth at *Holy-Rood*, and continueth till *Candlemas*.

Of the *Fox*, at *Christmas*, and continueth till the *Twenty Fifth* of *March*.

Of the *Hare*, at *Michaelmas*, and lasteth till *Mid-Summer*.

Of the *Boar*, from *Christmas* till *Candlemas*. id. ibid.

(©) *Taken*: Taken with the *Mayneer*, à *Manu*, is in four kinds; viz. *Dog-draw*; that is, Drawing after a *Deer*, which he hath hurt. *Stable-stand*; viz. At his Standing with any Knife, Gun, or Bow, or close with *Grey-Hounds* in his *Leash*, ready to Shoot or Course. *Back-bear*; (*Bracton*, lib. 3. fol. 32.) that is, Carrying away the *Deer*, which he Killed. *Bloody-hand*; i. e. When he hath Shot, or Courfed, and is imbrued with Blood. id. fol. 294.

If the *King*, or other *Lord* do Pardon a *Trespas* in a *Forest*, and the *Offendor* at a *Justice-Seat*, by his *Learned Council*, plead the same; in the *Proceeding* thereupon, we do observe Two things: 1. That by the Law of the *Forest*, before any Allowance thereof, the *Justices* charge the *Ministers* of the *Forest*, to enquire, whether the *Delinquent* hath done any *Trespas* in *Vert* or *Venison*, after the *Date* of the *Pardon*. 2. When the *Pardon* is allowed, then the *Entry* is, *Quod invenit manucaptores quod à modo non forisfac' i. non Delinqueret aut peccaret*. But if an *Offendor* be *Convicted* for *Trespas* in the *Forest*, in *Hunting*, &c. and adjudged to be *Fined* or *Imprisoned*; which *Fine*, though it be paid, yet shall he find *Sureties* for his good *Abearing*, &c. in these words: *Quod à modo se bene geret, & in Foresta prædicta non forisfac', i. non Delinqueret seu peccaret. Unde forisfactura pro delicto*. idem, fol. 313.



C H A P. XI.

A Nobleman may Kill a Deer in a Forest.

WHatsoever Arch-Bishop, Bishop, Earl, or Baron, coming to Us at Our Commandment, passing by our *Forest*; it shall be Lawful for him to Take and Kill one or two of our *Deer*, by View of our *Forester*, if he be present; or else he shall cause one to blow a Horn for him, that he seem not to Steal Our *Deer*. And they shall do so likewise in their Return from Us, as it is aforesaid.

We find not any Chapter or Article of this *Charta de Foresta*, doth extend to *Chases* or *Parks*, but only this *Eleventh Chapter*. *Quicumq; Archiepiscopus, Episcopus, Comes, vel Baro ad mandatum nostrum transierit per Forestam nostram, &c.* which doth not only extend to the *Forests* of the *King*, but to His *Chases* and *Parks* also: For so was the Law before the Making of this Act; which is but in Affirmance of the Common-Law of the *Forest*, before this Act. *Co. Instit.* 4.par. fol. 308.

First, In respect of the Persons: For, every Lord of *Parliament*, be he *Spiritual* or *Temporal*, had this Privilege besides those that be named in this *Chapter*; as, such *Abbots* and *Priors*, as were Lords of *Parliaments*; and so of *Dukes*,

Magna Charta

Dukes, Marquesses, and Viscounts, who were Erected and Created, afterwards being Lords of Parliament, have the same Privilege also. *id. ibid.*

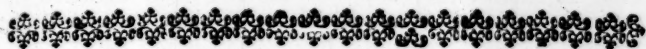
Secondly, By reason of the kind of Commandment; *Ad mandatum nostrum*, saith the Statute; which words have reference to the Writ of Parliament, directed to every Lord of Parliament, *Ideo vobis mandamus*, &c. and is a Legal Commandment by Writ directed severally to each and every Lord of Parliament, to appear at the King's Court of Parliament, &c. to treat *De arduis & urgentibus negotiis Regni, Statum & Defensionem Regni & Ecclesia Anglicanae concernentibus*. And to Recreate themselves, *Veniendo*, and after *Redeundo*, they may, passing by any of the King's Forests, Chases, or Parks, Hunt and Kill one or two of the King's Deer. The Lords of Parliament may do it at other times *ex Gratia*, but by Law, *Eundo & Redeundo*, to and from the Parliament.

Thirdly, Here is implied, that the Lord of Parliament may, in the Absence of the Forester or Keeper, after the Blowing of the Horn, Kill one or two of the King's Deer; *Propriis suis Canibus, aut Arcu suo proprio*.

Fourthly, Here is a secret Conclusion of Law, That albeit Spiritual Persons are Prohibited by the Canon-Law, to Hunt; yet by the Common-Law of the Land, they may for their Recreation, to make them fitter for the Performance of their Duty and Office, use the Recreation of Hunting, as here it directly appeareth. And in *Assisa Foresta*, 6 E. 1. it appeareth, That the Abbot of Peterborow had a Right of Hunting in the Forest of Rockingham. And this appeareth in other Statutes. *viz.* 13 R. 2. 19 H. 7. 1 Jac. c. 27. And at this Day, and Time out of mind, the King hath had after the Decease of every Arch-Bishop and Bishop (*inter alia*) *Mutam suam Canum*, &c. his Kennel of Hounds, or a Composition for the same; which, and other things, are in the Exchequer called *Multa*.

See 25 H.
8. cap. 19,
&c.

Fifthly, The last Conclusion is, That all Canons against the Laws or Customs of the Realm, are void, and of none effect.



C H A P. XII.

*How every Free-Man may use his Land
in the Forest.*

EVery Free-Man from henceforth, without Danger, shall make in his own Wood, or in his Land, or in his Water, which he hath within Our Forest; Mills, Springs, Pools, Marsh-Pits, Dikes, or Earable Ground, without inclosing that Earable Ground; so that it be not to the Annoyance of any of his Neighbours.

The Jurisdiction of the *Forest* being Local, the Law of the *Forest* hath provided, That the *Forest* should be inclosed by Meets and Bounds, which indeed are the Inclosure of the *Forests*: For, as *Parks* are Inclosed with Wall, Pale, or Hedges; so *Forests* and *Chases* are Inclosed by Meets and Bounds: And as a *Park* cannot be a *Park*, without such an Inclosure indeed; so it can be neither *Forest* nor *Chase*, without an Inclosure in Law; that is, by Meets and Bounds. *Metæ sunt Clausuræ Forestarum & Chacearum.* And where, by the Statute 6 E. 1. c. 18. it is provided, *Quod omnes metæ Foresta sint integræ Domino Regi*; that is, so to be understood, *Quoad Jurisdictionem & Imperium, & non quoad*
F Dominium:

Dominium: For if Rivers or High-Wayes be Bounds, (as most commonly they be) yet the *King* hath no more Interest in the Soil, Way, River, or Fishing, than of Right he ought; but only for his Jurisdiction of his *Forest*, which extendeth over the whole Way, River, &c. And where Mills, and other Houses, Trees, &c. of other Men, and such like, be Meets and Bounds of the *Forests*; yet thereby the *King* hath no Interest in such Mills, Houses, or Trees, &c. See more of this in *Co. Instit.* 4. par. fol. 315. 316.

Here is nothing in this *Chapter* so Difficult, as to need Explaining.



CH A P. XIII.

How every Free-Man may use his Land in the Forest.

EVERY Free-Man shall have within his own Woods, (a) *Ayries* of *Hawkes*, *Sparrow-Hawkes*, *Falcons*, *Eagles*, and *Hérons*; and shall have also the *Honey* that is found within his Woods.

8 E.
3. Itin.
Pick. Sir
John de
Melfa's
Case.

(a) *Aerie* is in our Language, the proper word in *Hawkes*; for That we generally call a *Nest* in other *Birds*; and so used here.

The Statute speaketh *De Aëriis Accipitrum, Esperuorum, Falconum, Aquilarum, & Hieronum*; which is but in Affirmance

mance of the Common-Law; for it extendeth to *Aeries* of other *Hawkes* than be specially named; as to *Aeries Mer-leonorum in boscis suis de Levesham*. Co. Instit. 4 par. fol. 310.



CHAP. XIV.

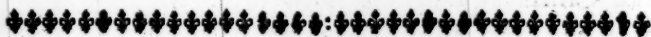
Who to take Chiminage or Toll in a Forest; for what Cause, and how much.

NO Forester from henceforth, who is not Forester in Fee, paying to Us Ferm for his Bailiwick, shall take any Chiminage, or Toll within his Bailiwick: But a Forester in Fee, paying Us Ferm for his Bailiwick, shall take Chiminage; that is to say, for Carriage by Cart, the Half-Year Two Pence, and for another Half-Year Two Pence: for an Horse that beareth Loads, every Half-Year an Half-Penny; and by another Half-Year, an Half-Penny. And but of those only that come as Merchants through his Bailiwick by License, to buy Bushes, Timber, Bark, Cole; and to sell it again at their Pleasure. But for none other

Carriage by Cart, Chiminage shall be taken. Nor Chiminage shall not be taken, but in such Places only where it hath been used to be. Those who bear upon their Backs Brushment, Bark, or Coal to sell, though it be their Living, shall pay no Chiminage to our *Foresters*, except they take it within our Demesne Woods.

Chiminage (as is here exprest) signifieth a Toll for Way-
farage through the Forest. *Crompt. Jurisdic.* fol. 189. *Man-
wood*, par. 1 of his *Forest-Laws*, fol. 86.

Quietum esse de Carego, cum aliqua Carta, seu Carecta cartata Transseuntes per Forestam, & similiter summagia seu somagia equorum Consuet. sunt solvere secundum magis vel minus Ministris ibidem pro Chemino, ibidem habend. Summagium, or Sommagium, cometh of the French word Sommier, or Summier; which signifieth a Horse carrying any Load. Chimagium, is derived from the French word Chemin, a Way; and, as the Lord Coke sayes, is a Toll for Wayfaring-Men through a Forest. Co. Instit. 4 par. fol. 306.



CHAP. XV.

*Pardon for Out-Laws, of Trespass within
the Forest.*

ALL that be Out-Law'd for the *Forest* on-
ly, since the time of King *Henry* our
Grand-

Grand-Father, until our first Coronation, shall come to our Peace without Lett, and shall find to us Sureties, That from henceforth they shall not Trespass unto us, within our *Forest*.

Here you see, though the Out-Laws are Pardoned; yet they are obliged *Invenire Manuceptores quod à modo non faciunt*, i. *non Delinquent aut peccarent*.



C H A P. XVI.

How Pleas of the Forest shall be Holden.

NO Constable, Castellani, or Bailiff, shall hold Plea of *Forest*, neither for (Δ) Greenhue, nor Venison, but every *Forester* in Fee shall make Attachments for Pleas of *Forest*, as well for Greenhue, as Venison; and shall present them to the Verderors of the Provinces. And when they be Inrolled, and Inclosed under the Seals of the Verderors; they shall be presented to our (*) Chief Justicers of our *Forest*; when they shall come into those Parts, to hold the Pleas of the *Forest*, and before them

them they shall be determined. And these Liberties of the *Forest*, we have granted to all Men; saving to Arch-Bishops, Bishops, Abbots, Priors, Earls, Barons, Knights, and to other Persons, as well Spiritual, as Temporal, Templars, Hospitallers, their Liberties and free Customes, as well within the *Forest*, as without, and in Warrens, and other places, which they have had. All these Liberties and Customes, We, &c. as it is in the End of *MAGNA CHARTA*, and We do confirm and ratify these gifts, &c. as you may see there too is specified, &c.

△ *Greenhue, Vert*, is whatsoever beareth green Leaf, but especially of green and thick Coverts: And *Vert* is of divers Kinds, some that beareth Fruit, that may serve as well for Food of Men as of Beasts, as Pear-Trees, Chestnut-Trees, Apple-Trees, Service-Trees, Nut-Trees, Crab-Trees, &c. and for the shelter and defence of the Game: some called *Haut-Bois*, serving for Food and Browse of, and for the Game, and for the defence of them, as Oakes, Beeches, &c. some *Haut-Bois*, for browse, and shelter, and defence only, as Ashes, Poplers &c. Of *Sub-Bois*, some for Browse and Food of the Game, and for shelter, and defence, as *Maples*, &c. some for Browse and defence, as Birch, Sallow, Willow, &c. some for shelter and defence only, as, Alder, Elder, &c. Of Bushes and other Vegetables, Some for Food and Shelter, as the Haw-Thorn, Black-Thorn, &c. Some for hiding and shelter as Brakes, Gorse, Heath, &c. To Sum up all, *Plantarum tria sunt genera: Arb. res, Arborecentes, & Herbae, Arborea,*

Arbores, as *Haut-Bois*, and *Sub-Bois*. *Arborescentes*, as Bushes, Brakes, &c. *Herba*, as Herbs and Weeds, which, albeit they be Green, yet our legal *Viridis*, Greenhue, extendeth not to them, *Co. Instit. 4. par. fol. 317.*

(*) The Court of the Justice-Seat hath Jurisdiction to inquire, hear, and determine two things: 1. All Trespasses within the *Forest*, according to the Laws of the *Forests*. 2. All the Claims of Franchises Privileges, and Liberties within the *Forest*; as, to have Parks, Warrens, Varies, to be quit of Assarts and Purprestures, to cut down his own Woods, without View of the Forester, &c. likewise Claims of Leets, Hundreds, Felons Goods, Waifs, Strayes, Fugitives, and to kill Hares and other Beasts of Chase within the *Forest*; or to have a Wood *Infra Metas Foresta*, & *extra Regardum Foresta*, that is, to be out of Jurisdiction of the *Forest*, and other Franchises, Privileges, Liberties, Immunities, Freedomes, &c. within the *Forest*; whereof excellent Matter is to be Read in the Eire of *Pickering*, in 8. E. 3. Rot. 3. 1. *Co. 4. Inst. fol. 291.* 21. H. 7.
30.

This Chief Justice may by the *Stat. 32. H. 8. c. 35.* make his Deputy, (yet all the Writs of Summons, Antient and Late are *Coram* (the Justice Itinerant) *Aut ejus Deputato*. Before any Justice-Seat be holden, the Regarders of the *Forest*, must make their Regard by Force of the King's Writ, and the Regard is *Obambulare*, to go through, and view the whole *Forest*, and every Bailiwick of the same; *Ad videndum, inquirendum, imbreviandum & certificandum* all the Trespasses in the *Forest*.

His Office extendeth through the whole *Forest*, and every Part thereof, to inquire of all offences concerning Vert and Venison, and of all Concealments of any Offences or Defaults of the Foresters, and all other Officers of the King's *Forest*. He is a Ministerial Officer, and is Constituted either by Letters-Patents of the King, or by the Chief-Justice at the Justice-Seat, or to be chosen by Writ to the Sheriff; *id. ibid.*

Before a Justice-Seat, there ought to be preparations for the same; to the end, that good Service may be done there,

Et

Kilway.
150. 6.
P. 21.
H. 7. 22,
& 30.

Et quod Itinera non sint umbratilia. ibid & sequent.
Note, Before Scroop, and other Justices in Eire, according to the Course of the Common-Law, a Man Claimed to be quit of Pannage of the King's Forest; And also he Claimed in the same Forest, Pannage of his Tenant Pour Agistes; And for that this belonged to the Justices of the Forest; they would not meddle with it. And the Reason of that, is, the Words of the Chapter, *Præsententur Capitalibus Justiciariis nostris de Foresta, cum in partes illas venerint, & coram eis terminentur.* So as the Termination and Ending thereof, belongeth to the Chief Justices of the Forest, by the express Words of this Chapter; and where it saith, *Coram Capitalibus Justiciariis nostris, &c.* It is to be known, That there is but one Chief Justice of the Forests on this side Trent, and he is named *Justiciarius itinerans Forestarum, &c. citra Trentam.* And there is another *Capitalis Justiciarius*, and he is *Justiciarius Itinerans omnium Forestarum, &c. Ultra Trentam*; who commonly is a Man of greater Dignity, than Knowledge in the Laws of the Forest. And therefore, when Justice-Seats are to be Holden, there be Associated to him such as the King shall appoint, who together with him shall determine *Omnia placita, &c. Foresta*, with a Patent of *Si non omnes*, and a Writ *de Admittendo, &c.* And the Chief Justice of the Forest, and these Associates, are *Capitales Justicarii Foresta*, and named *Capitales* in respect of the Verderors and others, that to some purposes have inferiour Judicial Places.

F I N I S.